

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Pettitt (TI-28576)

Serial No. 09/945,295

Filed: August 31, 2001

For: Automated Color Matching for Tiled Projection System

Conf. No. 2019

Group Art Unit: 2625

Examiner: Hung

REQUEST FOR RECONSIDERATION

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

This paper is presented in response to the Office Action mailed May 10, 2007. It is intended that this paper is fully responsive to that Office action. Reconsideration of this application, considering this paper and its accompanying evidence, is respectfully requested.

Claims 1, 4 through 13, 16 and 18 are in this case. No claim is amended.

Claim 1 was rejected under §103 as unpatentable over the Oguchi et al. reference¹ in view of the Mendelson et al. reference². Claims 4, 10, 12, 13, and 16 were rejected under §103 as unpatentable over the Oguchi et al. reference in view of the Mendelson et al. reference, and further in view of the Sato reference³. Claim 5 was rejected under §103 as unpatentable over the

¹ U.S. Patent No. 6,340,976 B1, issued January 22, 2002 to Oguchi et al., from an application filed August 17, 1999 via PCT International Application PCT/JP98/01709 filed April 15, 1998.

² U.S. Patent No. 6,559,826 B1, issued May 6, 2003 to Mendelson et al., from an application filed February 10, 2000, and which is apparently a continuation-in-part of an application No. 09/187,161, filed on November 6, 1998, now abandoned.

³ U.S. Patent No. 6,467,910, issued October 22, 2002 to Sato.

Oguchi et al. reference in view of the Mendelson et al. reference, and further in view of the Onuma et al. reference⁴. Claim 6 was rejected under §103 as unpatentable over the Oguchi et al. reference in view of the Mendelson et al. reference, and further in view of the Noguchi reference⁵. Claim 7 was rejected under §103 as unpatentable over the Oguchi et al. reference in view of the Mendelson et al. reference, and further in view of the Yoshikuni reference⁶. Claims 8 and 9 were rejected under §103 as unpatentable over the Oguchi et al. reference in view of the Mendelson et al. reference, and further in view of the Appel reference⁷. Claim 11 was rejected under §103 as unpatentable over the Oguchi et al. reference in view of the Mendelson et al. reference, and further in view of the Gibson reference⁸. Claim 18 was rejected under §103 as unpatentable over the Oguchi et al. reference in view of the Mendelson et al. and Sato et al. references, and further in view of the Gibson reference.

Applicant respectfully submits that the Mendelson et al. reference is not available as prior art against the claims in this case, for the reasons discussed below.

This application claims priority to provisional application No. 60/229,625, filed August 31, 2000, and is entitled to an effective filing date of August 31, 2000. Accordingly, the Mendelson et al. reference is not available as a reference under §102(b) against the claims in this case, because its issue (and first publication) date is after the effective filing date of this application.

However, the Mendelson et al. reference has a filing date of February 10, 2000, which is before the effective filing date of this application. As such, the Mendelson et al. reference is prior art under §102(a) and §102(e), and may be applied under §103, if its filing date (February 10, 2000) is prior to the date that the invention claimed in this application was made.

The undersigned notes that the Mendelson et al. reference claims priority, as a continuation-in-part, to a previously filed application S.N. 09/187,161, filed November 6, 1998.

⁴ U.S. Patent No. 5,287,173, issued February 15, 1994 to Onuma et al.

⁵ U.S. Patent No. 6,101,272, issued August 8, 2000.

⁶ English language abstract of Japan Patent Publication 02-001351, dated January 5, 1990, based on an application filed by Yoshikuni.

⁷ U.S. Patent No. 5,337,410, issued August 9, 1994 to Appel.

⁸ U.S. Patent No. 5,253,043, issued October 12, 1993 to Gibson.

The Mendelson et al. reference also claims priority to a provisional application No. 60/171,017, filed December 15, 1999.

Applicant submits that to establish the filing date of a provisional or other domestic priority application, as the effective prior art date of an issued U.S. patent claiming priority to that provisional or other domestic priority application, the patent must contain (i) at least one claim that is supported by the provisional or other domestic priority application,⁹ *and* (ii) the provisional or other domestic priority application must itself properly support, in compliance with 35 U.S.C. §112, ¶1, the subject matter relied upon to make the rejection.¹⁰

The Examiner has not asserted either of these findings in rejecting the claims currently in this case. Nowhere does the Examiner even assert, much less establish, that any claim in the Mendelson et al. reference is supported by the provisional application to which it claims priority. Nowhere does the Examiner assert, much less establish, that any claim in the Mendelson et al. reference is supported by the now-abandoned application to which it claims priority, as a continuation-in-part. Furthermore, the Examiner has made no assertion that either of the applications to which the Mendelson et al. reference claims priority includes the subject matter relied upon to reject the claims. Rather, the rejection was based only on the teachings of the Mendelson et al. reference in its form as an issued U.S. Patent.¹¹ Accordingly, the effective date for the Mendelson et al. reference is its filing date of February 10, 2000.

In response, Applicant submits that his invention was made prior to February 10, 2000. In support of this assertion, a Declaration of Gregory S. Pettitt is filed with this paper, establishing the date of invention as predating February 10, 2000.

As indicated in that Declaration, Applicant Gregory S. Pettitt conceived of the invention currently claimed in this application at least as early as February 10, 2000. For example, referring to claim 1, the first page of Exhibit A of the Pettitt Declaration clearly describes the storing of chromaticity and luminance data (the results of the “RGBY” algorithm) from the

⁹ 35 U.S.C. §119(e).

¹⁰ MPEP § 706.02(f)(1); MPEP §2136.03(III).

¹¹ In fact, the contents of the provisional application, and the contents of the now-abandoned application, are not available to the undersigned via Public PAIR.

engines of the multiple projectors. The communicating of this chromaticity and luminance data, and the determining of a standard color gamut from that data, is shown on “Page 5 of 9” of Exhibit A. Calculating of color correction data from the standard color gamut and the projector data is shown on “Page 6 of 9” of Exhibit A, and the use of this color correction data to correct color image data is shown on “page 7 of 9” of Exhibit A. Accordingly, the Pettitt Declaration establishes conception of the claimed method at least as early as February 10, 2000, and the portions of Exhibit A noted above in combination with Figure 2 of Exhibit A clearly establish conception of the claimed apparatus¹² at least as early as February 10, 2000.

Furthermore, the Pettitt Declaration also clearly establishes that diligence toward reduction to practice began at least as early as February 10, 2000, and resulted in actual reduction to practice of the claimed invention in an actual product.

Applicant therefore respectfully submits that the Pettitt declaration establishes that the claimed invention was made at least as early as February 10, 2000, and that therefore the Mendelson et al. reference is also not available as prior art against the claims in this application under §102(a) or §102(e), nor under any other subsections of §102.

As noted above, each basis of rejection against the claims in this case is a §103 patentability rejection, and is based on the combination of the Mendelson et al. reference with other prior art. Because the Mendelson et al. reference is not available as prior art against the claims in this application, each basis of rejection in this case no longer stands. Applicants therefore respectfully submit that the rejection of all claims in this case is overcome by the Pettitt Declaration.

¹² Claim 12 *et seq.*

For these reasons, Applicant submits that all claims are in condition for allowance. Favorable reconsideration of this application, in light of these remarks and the accompanying evidence, is therefore respectfully requested.

Respectfully submitted,
/Rodney M. Anderson/
Rodney M. Anderson
Registry No. 31,939
Attorney for Applicant

Anderson, Levine & Lintel, L.L.P.
14785 Preston Road, Suite 650
Dallas, Texas 75254
(972) 664-9554